

APPEAL NO. 040897
FILED JUNE 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 30, 2004. The hearing officer determined that the respondent's (claimant) _____, compensable injury includes an injury to the right shoulder diagnosed as a full thickness tear of the supraspinatus tendon. The appellant (carrier) appealed, essentially asserting that the hearing officer's determination is not supported by the evidence. The claimant responded, urging affirmance. We note that in her response, the claimant urges an order that the carrier be liable for both her right and left shoulder. The issue of whether or not the left shoulder is part of the compensable injury was not before the hearing officer; as such, we decline to address it.

DECISION

Affirmed.

We have reviewed the complained-of determination and find that the hearing officer's extent-of-injury determination is supported by sufficient evidence to be affirmed. The issue of extent-of-injury presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determination regarding the extent of the claimant's compensable injury is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**FRANCIS FAYE c/o J.I. SPECIALTY SERVICES, INC.
9229 WATERFORD CENTRE BOULEVARD, SUITE 100
AUSTIN, TEXAS 78758.**

Daniel R. Barry
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Edward Vilano
Appeals Judge